

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROSEMARY M. COMYFORD,

Plaintiff,

vs.

No. CIV 09-0303 JB/WDS

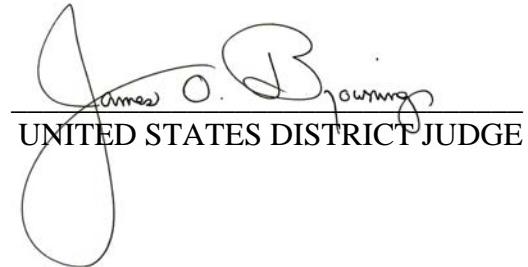
MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER comes before the Court upon the Plaintiff's Application for Attorney Fees Under Equal Access to Justice Act, filed August 19, 2011 (Doc. 24). The Defendant has no objection to the Motion. See Response to Plaintiff's Motion for Attorneys Fees Pursuant to the Equal Access to Justice Act at 1, filed August 31, 2011 (Doc. 26). The Court finds that it shall grant the motion for attorney fees.

IT IS ORDERED that: (i) the Plaintiff's Application for Attorney Fees Under the Equal Access to Justice Act is granted; (ii) attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) ("EAJA"), payable to Plaintiff Rosemary M. Comyford, in the amount of \$7,045.90, see Astrue v. Ratliff, 130 U.S. 2521, 2527 (2010) (holding that EAJA fees are paid to the prevailing party, not the attorney); and (iii) if Comyford's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Comyford pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).



James O. Bownings
UNITED STATES DISTRICT JUDGE

Counsel:

Patricia W. Glazek
Sante Fe, New Mexico

Attorney for the Plaintiff

Kenneth J. Gonzales
United States Attorney
Manuel Lucero
Assistant United States Attorney
Albuquerque, New Mexico

-- and --

Dianne M. Pryor
Special Assistant United States Attorney
Office of the General Counsel
Social Security Administration
Dallas, Texas

Attorneys for the Defendant